

proximity. Operating mineral interests under a voluntary agreement to which subparagraph (1) does not apply are subject to the rules contained in paragraph (a) of this section. For purposes of this paragraph an agreement is voluntary unless required by the laws or rulings of any State or any agency of any State.

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph, if the taxpayer, for the last taxable year beginning before January 1, 1964, treated as separate properties two or more operating mineral interests which participate, under a voluntary or compulsory unitization or pooling agreement entered into in any taxable year beginning before January 1, 1964, in a single cooperative or unit plan of operation, and if it is determined that such treatment was proper under the law applicable to such taxable year, the taxpayer may continue to treat all such interests in a consistent manner for the period of such participation. If it is determined that such treatment was not proper under the law applicable to such taxable year, or if the taxpayer does not continue to treat all such interests in a manner consistent with the treatment of them for the last taxable year beginning before January 1, 1964, the treatment of the interests shall be in accordance with the provisions of subparagraph (1).

(4) If only a part of an operating mineral interest, which interest is not being treated under paragraph (a) of this section as part of a combination of interests, participates in a unit or pool, such part shall, for the period of its participation in the unit or pool, be treated for purposes of this section as being separate from the nonparticipating portion of the operating mineral interest of which it is a part. A portion of the adjusted basis and of the units of mineral of such operating mineral interest remaining at the beginning of the period described in the preceding sentence shall be allocated to the participating part in accordance with the principles contained in paragraph (a)(2)(i)(a) of § 1.614-6 as if such participating part had been sold. If participation in the unit or pool ends, the separate status of the participating part shall immediately terminate. At such

time the adjusted basis of such part and the units of mineral with respect to such part remaining at the time of termination shall be added to the adjusted basis and to the remaining units of mineral of the nonparticipating portion of the operating mineral interest. During the period of participation in the unit or pool such participating part shall not be treated separately from the nonparticipating portion of the operating mineral interest in applying section 165.

(5) Where an operating mineral interest which is being treated under paragraph (a) of this section as part of a combination of interests begins participation in a unit or pool, the combination shall remain in force but the treatment of such participating interest as a part of the combination shall be suspended for the period of its participation in the unit or pool. If, for example, a taxpayer owns operating mineral interests Nos. 1, 2, and 3 in a single tract or parcel of land, elects to treat No. 1 as a separate property (with mineral interests Nos. 2 and 3 thus being combined), is later required by an agency of a State to place No. 2 in a unit, and subsequently discovers operating mineral interest No. 4 in the same tract or parcel of land, then under paragraph (a)(2)(i)(b) of this section No. 4 will automatically be combined with No. 3 unless the taxpayer elects to treat it as a separate property. Under this subparagraph, an interest may be treated as part of a combination for a portion of a taxable year and as part of a unit or pool for a portion of a taxable year. At the commencement of participation in the unit or pool, a portion of the adjusted basis of the combination and a portion of the units of mineral with respect to the combination remaining at that time shall be allocated to such participating interest in accordance with the principles contained in paragraph (a)(2)(i)(a) of § 1.614-6 as if such interest had been sold. During the period of participation in the unit or pool such participating interest is nevertheless treated as a part of the combination for purposes of paragraph (d) of § 1.614-6. If participation in the unit or pool ends, the treatment of such interest as participating in the unit or pool shall